

REMARKS

This Application has been carefully reviewed in light of the Final Action dated July 2, 2004. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1-20 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. With respect to Claims 1 and 14, the term "broadband loop emulation service signaling protocol" is a well known term of art in the telecommunications industry and easily known by those skilled in the art. Attached herewith is an Information Disclosure Statement that cites the article "Rolling Out VoDSL Through Loop Emulation" that discusses broadband loop emulation service. With respect to Claim 3, the term Class 5 softswitch is clearly known by those skilled in the art and acknowledged by the Examiner as being specifically defined at page 2, lines 6-11, of Applicant's specification. The term media gateway and call session control format is defined by specifically identifying examples thereof at page 6, lines 11-14, that the Examiner would be hard pressed in stating is not well known in the art. With respect to Claim 9, the term network signaling format is defined by specifically identifying examples of network signaling formats such as SS7 at page 6, lines 17-22, that the Examiner would be hard pressed in stating is not well known in the art. Thus, all of the terms identified by the Examiner are fully known to those skilled in the art and appropriately defined in Applicant's specification. Therefore, Applicant respectfully submits that Claims 1-20 are in accordance with 35 U.S.C. §112, second paragraph.

Claims 1-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Smyk. With respect to Independent Claim 1, there is recited ". . . a gateway operable to receive

signaling information in a media gateway and call session control format, the gateway operable to convert the media gateway and call session control format to a broadband loop emulation service signaling protocol, the gateway operable to provide tone generation and detection capabilities pursuant to the signaling information." By contrast, the Smyk patent does not disclose a gateway that converts a media gateway and call session format to a broadband loop emulation service signaling protocol while also providing tone generation and detection as required by the claimed invention. The Smyk patent has no disclosure with respect to a broadband loop emulation service signaling protocol. Moreover, the Examiner readily admits that the Smyk patent fails to teach tone generation and detection capabilities at the gateway. The Examiner merely provides an improper subjective "it would have been obvious" conclusory statement as a basis for the rejection that has not been shown to be supported from within the Smyk patent or the prior art. Thus, the Smyk patent does not have a gateway that is capable of performing both the protocol conversion and the tone generation/detection functions provided in the claimed invention. Additionally, Claims 3 and 9-11 recite a Class 5 softswitch. As pointed out by the Examiner, the Smyk patent clearly uses a Class 5 switch as opposed to the claimed Class 5 softswitch. The Class 5 switch of the Smyk patent cannot perform the function of converting the network signaling format to the media gateway and call session control format let alone providing and receiving the media gateway and call session control format as performed by the Class 5 softswitch provided in Claims 3 and 9-11.

With respect to Independent Claim 14, there is recited a task of ". . . converting the media gateway and call session control format to a broadband loop emulation service signaling

protocol; providing tone generation and detection in response to the signaling information and instructions received from the Class 5 softswitch." By contrast, the Smyk patent does not disclose a gateway that converts a media gateway and call session format to a broadband loop emulation service signaling protocol while also providing tone generation and detection as required by the claimed invention. The Smyk patent has no disclosure with respect to a broadband loop emulation service signaling protocol. Moreover, the Examiner readily admits that the Smyk patent fails to teach tone generation and detection capabilities at the gateway. The Examiner merely provides an improper subjective "it would have been obvious" conclusory statement as a basis for the rejection that has not been shown to be supported from within the Smyk patent or the prior art. Thus, the Smyk patent does not have a gateway that is capable of performing both the protocol conversion and the tone generation/detection functions provided in the claimed invention. Additionally, Claim 14 requires receiving signaling information in a media gateway and call session control format from a Class 5 softswitch. The Smyk patent clearly uses a Class 5 switch as opposed to the claimed Class 5 softswitch. The Class 5 switch of the Smyk patent has no capability to provide signaling information in a media gateway and call session control format as required by the Class 5 softswitch of Claim 14.

Based on the reasoning above, the Smyk patent is insufficient by itself to support a rejection of the claims. Therefore, Applicant respectfully submits that Claims 1-20 are patentably distinct from the Smyk patent.

Applicant notes that the Examiner readily admits that the Smyk patent fails to disclose certain elements of the claims. Despite the admitted deficiencies of the Smyk patent, the

Examiner supports the rejection of the claims by stating that the element or function would be obvious to those skilled in the art from the Smyk patent. However, other than the Examiner's own subjective conclusions, there has been no evidence of record to support the rejections to the claims. Applicant respectfully requests the Examiner to provide objective evidence that supports the rejection of the claims by citing other references that specifically teach the claimed invention as opposed to unsupported subjective conclusions currently presented by the Examiner.

CONCLUSION

Applicant has now made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of Claims 1-20.

The Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,  
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